

AMENDED STATE OF DELAWARE DONATED LEAVE PROGRAM

On February 2, 1996, Governor Carper signed “An Act to Amend Chapter 59, Title 29 of the Delaware Code Relating to the Merit System of Personnel Administration; and Providing for Donated Leave” (*Senate Bill No. 28 as amended*). This legislation establishes a “Donated Leave Program” for State officers and employees. The program is designed to aid employees suffering from any illness or injury to the employee or to a member of an employees family which is diagnosed by a physician and certified by the physician as rendering the employee or the member of the employees family unable to work, or in the case of family member who does not work the medical equivalent of “unable to work” for a period greater than 5 calendar weeks by enabling them to draw upon sick and annual leave donated by other employees. Employees may donate sick and annual leave in equal amounts directly to other specified employees suffering from illnesses pursuant to the terms and conditions set forth by the Act. They may also donate to the “Donated Leave Bank” which eligible employees may draw upon.

On July 18, 2000, Governor Carper signed “An Act to Amend Title 14 and Title 29 of the Delaware Code Relating to the Donated Leave Program” (*Senate Bill No. 253*). This legislation amends the donated leave program to allow State employees and public school district employees to receive donated leave not only for illness or injury to themselves but also for illness or injury to a spouse, son, daughter, or parent who resides with the employee and who requires the personal attendance of the employee.

Section 42 of the FY 2001 Budget Act eliminated the restriction of an employee making a donation within the last six months prior to their retirement from State employment.

The following is a brief summary of the major provisions of the Acts:

Please Note: The following provisions apply to all DONORS and DONOR RECIPIENTS in completing any Donated Leave Program form.

1. DONATED LEAVE

Employees may donate accrued sick and annual leave in equal amounts to other designated employees or to the “Donated Leave Bank”. This means that any donation of sick leave must include an equivalent donation of annual leave.

2. DONATED LEAVE CONVERSION

The recipient’s agency will convert the donated leave into cash value at the donor’s rate of pay, shall re-convert the cash value to hours of leave at the recipient’s rate of pay, and then credit the recipient’s account for the equivalent hours.

3. ILLNESS*

Donated leave may be used by a recipient only for an illness* of the recipient or of a family member of the recipient. Separate periods of disability lasting 7 calendar days or more each, resulting from the same or related medical condition and occurring within any 12 consecutive month period, shall be considered the same period of disability. Definition of family member or member of any employee’s family means an employee’s spouse, son, daughter, or parent who

resides with the employee and who requires the personal attendance of the employee during the family member's illness or injury.

4. OTHER REQUIREMENTS

Before receiving donated leave time, the requesting employees shall: (1) have been a State officer or employee for at least 6 months prior to the request; (2) have used all of his or her sick days and half of his or her annual leave; however, when the donated leave time is for the illness* of a family member, the employee must have used all of his or her sick days and annual leave; and (3) have established medical justification for such receipt, which must be renewed every 30 days.

5. EFFECTIVE DATE

Direct donations are effective immediately; donations to the Donated Leave Bank do not become effective until the Donated Leave Bank is established, but no later than May 2, 1996.

6. PROGRAM MANAGEMENT

State Personnel has developed the following forms and process checklist for agencies (attached) to activate the provisions of the Act:

- DL-1: Request for Donated Leave
- DL-2: Request to Make a Direct Donation
- DL-3: Application to Make a Direct Donation to the Donated Leave Bank
- DL-4: Authorization to Release Information for Solicitation Purposes
- Agency Checklist of Steps for Processing Donated Leave Requests
- Donated Leave Program Calculation Worksheet

7. DONATED LEAVE REVIEW COMMITTEE

A Donated Leave Review Committee will help manage the Donated Leave Bank. The Committee will, for example, recommend which leave request should receive priority when there is insufficient leave time available in the Leave Bank to honor all requests.

8. DONATED LEAVE PROGRAM CHANGES

At the Human Resources Administrators' meeting held on January 28, 2002, the request was made for comments on realigning the Donated Leave Program. Based on the comments received, the following Donated Leave Program changes became effective as of February 24, 2002.

The realignment requires the agencies to:

- Review employee's request for Donated Leave and approve or deny based on information provided.
- Review medical certifications every 30 days for requests to extend Donated Leave approvals.
- Process Donated Leave calculation worksheets with direct donations received and pay employee accordingly.
- Maintain accurate documentation of requests, donations and payment for auditing purposes.

The State Personnel Office will:

- Maintain the Donated Leave Bank including processing donations and approving funds for disbursement. Agencies should:
 - Forward DL-3 forms for donations to SPO and
 - Forward Donated Leave Calculation Worksheets which include requests for hours/funds from Donated Leave Bank to SPO
- Send Statewide Donated Leave solicitations upon request from agencies.
- Provide guidance regarding administration of the program as needed.
- Audit the program and individual cases as needed.

9. SOLICITATION FOR DONATED LEAVE

After receiving authorization from the employee, agencies will first solicit Donated Leave donations within their own agency. Employees must complete the Donated Leave application including the DL-4, "Authorization to Release Information for Solicitation Purposes." Solicitations must comply with HIPAA regulations and not include any personal health information. Solicitations should state only that the employee is out of work due to an illness or injury.

After agencies have solicited for direct donations internally, they may request that the State Personnel Office distribute a Statewide Solicitation. A Statewide Solicitation will be sent upon request from the agency. The e-mail request must contain the verbiage to be included on the solicitation. If additional donations are needed, upon agency request, SPO will distribute a second Statewide Solicitation thirty days after the first solicitation.

The receiving agency will process all donations received through internal donations or as a result of a Statewide Solicitation. No documentation should be sent to the State Personnel Office unless requesting Donated Leave Bank hours. (See below)

10. DONATED LEAVE BANK REQUESTS

The requesting agency must solicit for donations internally within their agency and through the Statewide Solicitation process before requesting Donated Leave Bank hours. The State Personnel Office will distribute funds from the Donated Leave Bank as requested based on availability of funds. Agencies should request Donated Leave Bank hours in writing through e-mail. SPO will notify the agency that hours are available. The agency is required to forward copies of the DL-1 to SPO along with electronic versions of the Donated Leave calculation worksheets for each pay period Leave Bank hours are being requested.

SPO will submit the request for Donated Leave Bank hours to the Donated Leave Bank Committee for their review and recommendation for approval. SPO will notify the agency when the Donated Leave Bank request has been approved at which time they may then post the hours to the employees' account.

If the agency receives a direct donation internally for one of their eligible employees after the time the employee has been approved for Donated Leave Bank hours, the hours from the leave bank should be returned to the Donated Leave Bank if the employee is not in need of these additional hours.

11. DONATED LEAVE BANK DONATIONS

State agency employees wishing to make donations to the Donated Leave Bank must complete Part I of the DL-3: Application to Make a Direct Donation to the Donated Leave Bank. Equal amounts of sick and annual leave must be donated. The employee's Supervisor or Division Director must complete Part II of the DL-3 and the employee's personnel or payroll office must complete Part III. Forms must be forwarded to the State Personnel Office address listed on the DL-3. SPO will complete the form, return it to the agency, post and distribute the Donated Leave Bank hours as requests are received.

**Illness is defined as any illness or injury to the employee or to a member of an employees family which is diagnosed by a physician and certified by the physician as rendering the employee or the member of the employees family unable to work, or in the case of family member who does not work the medical equivalent of "unable to work" for a period greater than 5 calendar weeks.*